

The European Dimension of Data Protection: set law, case law and future perspectives

By **Popotas Costas**

Chef d'unité

Unité Droits statutaires, affaires sociales et médicales, conditions de travail

«The European data protection framework dates since 1995 and it appears outdated for many. Twenty years ago the introduction of data protection principles by the directive 95/46/EC was a necessity and a novelty. The choice of implementing through a directive corresponded to the political will of the time, since any effort to put in place a homogenous set of rules throughout Europe would have been objected; the directive left leeway to member states for a gradual adaptation. At that time we were using Gopher and Veronica, WWW was at its infancy and Google inexistent. Since then the explosive expansion of Internet, social networking, electronic commerce, e-government, geolocalisation , drones, Google earth, made the 1995 framework outdated and the coverage inefficient. Patchy supplements came into force to enhance the protection, as technology was moving ahead and law was lagging behind. The incoherence amongst texts of different generations of legislation became eventually obvious. The 2009 amendment of the Treaties brought into play a basic text on fundamental rights, with the inclusion of data protection. In 2012 the European Commission undertook to modernize the framework, simplify it and implement universal rules for Europe through a regulation, compulsory and homogenous throughout Europe. While the first wave of legislative efforts did not meet the success expected, the adoption of the regulation stalled when concerns of surrendering sovereignty in the domain made surface. This eventually gave place to litigation on issues unregulated by the existing framework. Gradually the Court of justice had to invalidate texts. The latter was considered by some as a breach to the structure of the protection while others felt that the Court was simply eliminating dysfunctional elements. Whatever the case, Europe needs a general legal framework providing clear, modern and resilient stance on Data protection issues.»